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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/084,596 | 02/27/2002 | Dale E. Gulick | 2000.051900/TT4033 | 8995 |
| 23720 | 7590 | 10/24/2005 | EXAMINER | |
| WILLIAMS, MORGAN & AMERSON, P.C. 10333 RICHMOND, SUITE 1100 HOUSTON, TX 77042 | | | WILLIAMS, JEFFERY L | |
| | | ART UNIT | PAPER NUMBER | |
| | | 2137 | | |

DATE MAILED: 10/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/084,596 | GULICK, DALE E. | |
| | Examiner | Art Unit | |
| | Jeffery Williams | 2137 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 07 September 2005.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-65 is/are pending in the application.
 4a) Of the above claim(s) 1-50 is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) _____ is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 27 February 2002 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

| | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>10/11/02</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of claims 51 – 65 in the reply filed on 9/07/2005 is acknowledged.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 51, 52, 54 – 57, 59 – 62, 64, and 65 are rejected under 35 U.S.C. 102(e) as being anticipated by Flyntz, "Multi-Level Secure Computer With Token-Based Access Control", U.S. Patent 6,389,542.

Regarding claim 51, Flyntz discloses:

receiving a request for an authentication, at a microcontroller, requesting security data from a security device; receiving the security data from the security device, at the microcontroller (Flyntz, col. 2, lines 52-56; col. 15, lines 5-20, 33-36, 53-55).

Flyntz discloses that a user requests authentication by supplying security data to the microcontroller, which in turn processes such security data to evaluate acceptance.

evaluating the security data; and approving the authentication if the security data is evaluated as acceptable (Flyntz, col. 10, lines 33-40).

Regarding claim 52, Flyntz discloses:

disapproving the authentication if the security data is evaluated as unacceptable (Flyntz, col. 2, lines 53-57; col. 10, lines 33-37).

Regarding claim 54, Flyntz discloses:

wherein requesting security data from a security device comprises requesting the security data from the security device over a direct connection between the security device and the microcontroller; and wherein receiving the security data from the security device, at the microcontroller, comprises receiving the security data from the security device over the direct connection to the microcontroller (Flyntz, fig. 2, elem. 31, 32).

Flyntz discloses a direct connection between the security device and the microcontroller.

Regarding claim 55, Flyntz discloses:

wherein requesting security data from a security device comprises requesting biometric data from a biometric device; wherein receiving the security data from the security device, at the microcontroller, comprises receiving the biometric data from the biometric device, at the microcontroller (Flyntz, col. 2, lines 52-56; col. 15, lines 5-20, 33-36, 53-55; col. 6, lines 36-46).

wherein evaluating the security data comprises evaluating the biometric data; and wherein approving the authentication if the security data is evaluated as acceptable comprises approving the authentication if the biometric data is evaluated as acceptable (Flyntz, col. 2, lines 52-56; col. 15, lines 5-20, 33-36, 53-55; col. 6, lines 36-46; col. 10, lines 33-40).

Regarding claims 56, 57, 59 – 62, 64, and 65, they are the method steps and method implemented on computer readable medium claims corresponding to the method claims above, and are rejected for the same reasons.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 53, 58, and 63 rejected under 35 U.S.C. 103(a) as being unpatentable over Flyntz in view of Angelo, “Method and Apparatus for Allowing Access to Secured computer Resources by Utilizing a Password and an External Encryption Algorithm”, U.S. Patent 5,949,882.

Regarding claim 52, Flyntz discloses a system for providing power to secure system portions. Using such a mode of system management allows the system of Flyntz to provide access to authentication requests only after a positive indication of acceptability has been received (Flyntz, Abstract; col. 1, lines 55-63). Flyntz, however, does not disclose the authentication process as occurring in SMM, or system management mode. Specifically, Flyntz does not disclose *wherein evaluating the security data comprises requesting an indication of acceptability inside SMM.*

Like Flyntz, Angelo discloses a secure power up procedure for providing power to system portions that have been permitted access by authorized users (Angelo, Abstract; col. 6, lines 44-50; col. 11, lines 17-45). Angelo specifically discloses that such a method of system management employs SMM, or system management mode. SMM is advantageously a secure mode of system operation.

It would have been obvious to one of ordinary skill in the art to employ the method of authentication within SMM by Angelo with the system for authentication of Flyntz. This would have been obvious because one of ordinary skill in the art would have been motivated to employ methods that are known to be secure.

Regarding claims 58 and 63, they are the method steps and method implemented on computer readable medium claims corresponding to the method claims 52, and are rejected for the same reasons.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Angelo et al., "Secure Two-Piece User Authentication in a Computer Network", US Patent 5,953,422.

Kong, "Method of Detaching a Security Device form a Personal Computer", US 6,243,813.

Mooney et al., "Preboot Protection of Unauthorized Use of Programs and Data with a Card Reader Interface", US Patent 5,327,497.

A shortened statutory period for reply is set to expire 3 months (not less than 90 days) from the mailing date of this communication.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffery Williams whose telephone number is (571) 272-7965. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (571) 272-3865. The fax phone

number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jeffery Williams
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Art Unit 2137




EMMANUEL L. MOISE
SUPERVISORY PATENT EXAMINER